UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION 1:17-cv-00342-FDW

RESHOD HENDERSON,)	
Plaintiff,)	
vs.)	<u>ORDER</u>
BUNCOMBE COUNTY SHERIFF'S DEPT., et al.,)))	
Defendants.)))	

THIS MATTER is before the Court upon its own motion.

On December 18, 2017, Reshod Henderson, acting pro se, filed a Complaint pursuant to 42 U.S.C. § 1983. (Doc. No. 1.) He also filed what purports to be an in forma pauperis ("IFP") application and affidavit, which was signed but not dated. (Doc. No. 2.)

On December 20, 2017, the Clerk of Court mailed Plaintiff copies of his filed Complaint and IFP Application, as well as a blank long-form IFP Application used by this Court in § 1983 actions. On December 29, 2017, the Clerk of Court sent Plaintiff a deficiency notice informing him that his previously-filed IFP affidavit was not dated and instructing Plaintiff to correct the deficiency or pay the \$400 filing fee within 21 days. All documents were mailed to Plaintiff at the Buncombe County Detention Center, the address Plaintiff listed for himself in his Complaint.

On January 11, 2018, the documents sent to Plaintiff by the Clerk on December 29, 2017, were returned as undeliverable and unable to be forwarded. (Doc. No. 4.) The documents sent by the Clerk to Plaintiff on December 20, 2017, were returned in the same fashion on January 16, 2017. (Doc. No. 5.) The return envelopes from the Buncombe County Detention Center state that Plaintiff was released from the Detention Center on December 15, 2017. (Doc. Nos. 4, 5.)

Plaintiff has neither paid the \$400.00 filing fee nor filed a valid IFP application and affidavit. The Court may not conduct an initial review of the Complaint until Plaintiff has done one or the other. See 28 U.S.C. §§ 1914(a), 1915(a)(1). The Clerk of Court is unable to send Plaintiff another deficiency notice without a current address, which Plaintiff has had more than enough time to provide. As such, the Court shall dismiss this action without prejudice. It may be reopened in the event Plaintiff files a valid IFP application or pays the filing fee.

IT IS THEREFORE ORDERED that the 42 U.S.C. § 1983 Complaint (Doc. No. 1) is **DISMISSED** without prejudice for failure to prosecute.

Signed: April 25, 2018

Frank D. Whitney

Chief United States District Judge